

Bartlett Collins Company and American Flint Glass Workers Union, AFL-CIO, Petitioner. Case 17-RC-11953

July 11, 2001

DECISION ON REVIEW AND ORDER
BY MEMBERS LIEBMAN, TRUESDALE, AND
WALSH

On March 26, 2001, the Regional Director issued a Decision and Direction of Election, in which he found appropriate the petitioned-for unit of mold makers, machinists, senior machinist, and lead man (mold-repair employees) at the Employer's Sapulpa, Oklahoma facility. Thereafter, in accordance with Section 102.67 of the National Labor Relations Board's Rules and Regulations, the Employer filed a timely request for review. The Employer argues that the petitioned-for unit does not constitute a craft unit or a functionally distinct group, and that only a wall-to-wall unit is appropriate for purposes of collective bargaining. By Order dated April 4, 2001, the Board granted the Employer's request for review.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

We have carefully considered the entire record in this case, including the Petitioner's brief on review, and for the reasons set forth below, have decided to reverse the Regional Director's finding that the petitioned-for unit is appropriate. We conclude, contrary to the Regional Director, that the smallest appropriate unit encompassing the mold-repair employees must also include the Employer's mold-cleaning employees.

The Employer operates a glass tableware manufacturing plant at its Sapulpa, Oklahoma facility.¹ The Employer's facility consists of four buildings; however, the majority of the work is performed in the manufacturing building. The manufacturing building houses the production and maintenance department, the forming department, the mold-repair shop, the mold-cleaning department, and the machine repair shop. The Petitioner seeks to represent a unit of 18 mold-repair employees. The Regional Director found that the mold-repair employees constitute a craft or a functionally distinct homogenous group working in a trade or occupation for which a tradition of separate representation exists and, therefore, that the petitioned-for unit was appropriate for collective bargaining. We disagree.

The Board's procedure for determining an appropriate unit under Section 9(b) is to examine first the petitioned-for unit. If that unit is appropriate, then the inquiry into

the appropriate unit ends. If the petitioned-for unit is not appropriate, the Board may examine the alternative units suggested by the parties, but it also has the discretion to select an appropriate unit that is different from the alternative proposals of the parties. See, e.g., *Overnite Transportation Co.*, 331 NLRB 662 (2000); *NLRB v. Lake County Assn. for the Retarded*, 128 F.3d 1181, 1185 fn. 2 (7th Cir. 1997). The Board generally attempts to select a unit that is the smallest appropriate unit encompassing the petitioned-for employee classifications. See, e.g., *R & D Trucking*, 327 NLRB 531 (1999); and *State Farm Mutual Automobile Insurance Co.*, 163 NLRB 677 (1967). In determining whether the employees possess a separate community of interest, the Board examines such factors as mutuality of interest in wages, hours, and other working conditions; commonality of supervision; degree of skill and common functions; frequency of contact and interchange with other employees; and functional integration. *Ore-Ida Foods*, 313 NLRB 1016 (1994). It is well settled that the unit need only be an appropriate unit, not the most appropriate unit. *Morand Bros. Beverage Co.*, 91 NLRB 409, 419 (1950), *enfd. on other grounds* 190 F.2d 576 (7th Cir. 1951).

We find, contrary to the Regional Director, that the petitioned-for employees do not constitute a craft, readily identifiable homogenous group, or departmental group, with a community of interest separate from that of certain excluded employees. The mold-repair employees are responsible for repairing, modifying, and rebuilding the molds that are used on the forming machines known as "IS" machines, and coding machines. They do not make molds, but manufacture small parts for machines, including orifice rings, shafts, couplings, and gauges. Mold-repair employees must be familiar with the use of fuse welding and TIG welding, drilling, belt sanding, filling, and grinding. However, there is no apprenticeship program, no journeyman status, and the mold-repair employees are not required to possess any sort of licenses or certifications such as are frequently possessed by employees in cases where the Board has found craft status. See, e.g., *Burns & Roe Services Corp.*, 313 NLRB 1307 (1994).

Further, although the absence of an apprenticeship program or the possession of licenses does not preclude finding craft status, in those cases in which the Board has found craft status, the employees were required to have extensive previous experience in their particular craft area. Here, the Employer does not require that mold-repair employees possess any previous mold-repair experience. Indeed, many of the mold-repair employees transferred from other excluded classifications and have absolutely no prior experience in mold repair. The ma-

¹ Since 1964 the Petitioner has represented production and maintenance employees in the Employer's forming department, whom the Regional Director excluded from the unit found appropriate.

jority of the mold-repair employees are not highly skilled and do not possess skill levels different from other excluded employees.

Finally, unlike mold makers, whom the Board has found to constitute a traditional craft, see, e.g., *Precision Cast Parts Corp.*, 224 NLRB 382 (1976), mold-repair employees do not perform functions traditionally associated with either the mold-making craft, or any other craft.² Thus, we find that the petitioned-for unit of mold-repair employees is not a craft unit appropriate for purposes of collective bargaining.

Further, we find, for the reasons set forth below, that mold-repair employees do not otherwise possess a separate community of interest apart from that of certain excluded employees. Rather, we find that the smallest appropriate unit encompassing the petitioned-for classifications must also include the mold-cleaning employees. The 12 mold-cleaning employees are located in close physical proximity to the mold-repair employees. The mold-repair shop is located in the basement of the Employer's facility. The mold-cleaning department adjoins the mold-repair shop in the basement—only a doorway physically separates the two. The mold-cleaning employees and the mold-repair employees are both supervised by Andy Walsh, the mold-engineering manager.

Additionally, the functions of the mold-cleaning employees are highly integrated with those of the petitioned-for employees. The mold-repair employees are responsible for repairing, modifying, and rebuilding the molds, and the mold-cleaning employees are responsible for cleaning, repasting, and repolishing the molds. Mold-repair employees and mold-cleaning employees perform closely related work; both maintain molds for use by production employees. The mold-repair employees have regular and frequent interaction with the mold-cleaning employees in the maintenance of the equipment and by providing the mold-cleaners with directions and instruction through a logbook.

Finally, the mold-cleaning employees and mold-repair employees receive the same benefits including vacation, insurance, holidays, retirement, and insurance, and also are subject to the same Employer policies. Consequently, the mold-cleaning employees share a strong community of interest with the mold-repair employees, particularly as their work is functionally similar and inte-

grated and they share common supervision. Accordingly, we find that the smallest appropriate unit including the petitioned-for employees must also include the 12 mold-cleaning employees.

We further find, contrary to the Employer's contention, that the inclusion of the remaining classifications of unrepresented production employees is not required. As noted above, the mold repair and mold-cleaning employees are physically located in the basement, away from most of the excluded production employees. They spend the majority of their time in the mold-repair shop where the equipment is located, even taking most of their breaks there. The mold repair and mold-cleaning employees are separately supervised from the other employees.

Further, the mold-repair and mold-cleaning employees, as a group, essentially perform integrated functions distinct from those performed by the other unrepresented employees. Both groups perform work on molds. There is no evidence that any of the excluded employees perform mold-repair functions or work on the molds. There is only limited overlap of functions between the lesser skilled mold-repair employees, mold-cleaning employees, and excluded production employees.

Mold-repair employees apparently have some regular contact with production employees when the production employees bring metal parts to the mold shop or come to the mold-repair shop to talk about a particular job, and, on occasion, a mold-shop repair employee will go to the forming department to retrieve molds or effect a repair. However, the Employer has not established that such contact is anything but incidental to the performance of their function of repairing small parts for the Employer's production machinery. In addition, the mold repair and mold-cleaning employees generally do not work side by side with excluded employees and they are not assigned to work with excluded employees on teams. Rather, the mold-repair employees spend a majority of their time in the mold-repair shop, where the equipment is located. Thus, it appears that the contact between the mold-repair and cleaning employees and the excluded production employees is not so frequent and substantial as to preclude finding a separate unit appropriate.

Although there have been seven transfers into the mold-repair shop from other departments, there have been no transfers of mold-repair/mold-cleaning employees into other classifications. Further, these transfers have occurred over a period of years and, therefore, the significance of such transfers is diminished. So far as the record shows, the employees have no temporary interchange.

² *Ball Bros. Co. of California*, 80 NLRB 1316 (1948), is the only case in which the Board found appropriate a separate unit of mold-repair employees. There, however, unlike here, the Board found that mold repairmen were skilled workers who in the course of repairing molds performed virtually all the operations of the mold-making craft, as customarily defined within the collective-bargaining agreements within the glass container manufacturing industry.

In view of the foregoing, we find that a unit of both mold-repair employees and mold-cleaning employees is an appropriate unit. These employees are a readily identifiable group with common interests distinct from other employees. *Del-Mont Construction Co.*, 150 NLRB 85 (1964); *Carbide & Carbon Chemicals Corp.*, 56 NLRB 779 (1944). The unit also is the smallest appropriate unit encompassing the petitioned-for mold-repair employees. *Overnite Transportation*, *supra*. Accordingly, we reverse

the Regional Director's decision and find appropriate a unit consisting of: mold makers, machinists, senior machinist, lead man, and mold-cleaning employees.

ORDER

This proceeding is remanded to the Regional Director for further appropriate action consistent with this decision.